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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/646,780	08/25/2003	Ryo Shinata	2003_1198A	1083

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EXAMINER

SCHWARTZ, CHRISTOPHER P

ART UNIT PAPER NUMBER

3683

DATE MAILED: 03/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/646,780

Applicant(s)

SHINATA, RYO

Examiner

Christopher P. Schwartz

Art Unit

3683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 6-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 6-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

*Christopher P. Schwartz*  
CHRISTOPHER P. SCHWARTZ  
PRIMARY EXAMINER

### **DETAILED ACTION**

1. Applicant's response filed 12/9/04 has been received and considered. Claims 1-5 have been canceled. Claims 6-11 have been added.

#### ***Drawings***

2. The drawings that were received on 12/9/04 have been approved.

#### ***Specification***

3. The substitute specification has been entered.

#### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 6-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miura in view of Yamaoka '113 or Yamaura et al..

Regarding claims 6 and 9 Miura in figures 7-11 a valve disc arrangement similar to applicant's that is readily apparent from the drawings. Note the second, third and fourth valve discs at 41,25 and 26.

Miura lacks a discussion of the specifics of the cross sectional areas of the ports with respect to the restrictive orifices, regardless of the angular position between the second and third valve discs. It does not however appear that the valve discs of Miura rotate given the similar structure between this device and that of applicant's,

Note in column 3 lines 49-51 it is stated that "the number, the location and the configuration of the cut-outs 25a may be determined as desired". And in column 5 it is stated that the "ratio between the damping force in the extension and contraction strokes of the damper particularly in the range of low piston speed can be determined as desired". This damping force may be altered as discussed in col. 1—i.e. changing the configuration of the valve discs.

Yamaoka or Yamaura et al. are relied upon to show it is notoriously well known in the art to vary this arrangement by sizing and shaping the respective apertures, slots and notches in the several valve discs or a respective valve disc. See figures 2-7, 9-14 and 16-21 of Yamaoka and figures 3-6 of Yamaura et al.

One having ordinary skill in the art at the time of the invention would have found it obvious to have made the cross sectional areas of the plurality of ports greater than that of the restrictive orifices in the device of Miura, regardless of the relative angular position between the second and third valve discs, since it is notoriously well known in the art to adjust these respective parameters to control the rate of fluid flow between the respective chambers simply dependent upon the damping characteristics desired from the shock absorber. This is general taught by both references Yamaoka and Yamaura et al.

Regarding claims 7,8,10,11 in light of the discussion above these requirements are rendered obvious by the combined teachings of the references above.

***Response to Arguments***

6. Applicant's arguments filed 12/9/04 have been fully considered but they are not persuasive. The examiner maintains the position that it is notoriously well known in the art to vary or tailor the damping force to particular requirements by varying the size, shape, and respective orientations of the several orifices in the valve discs in the piston arrangements of shock absorbers. Given the references above and those cited but not applied the ordinary skilled worker in the art would have found it obvious to have made the claimed invention.

***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

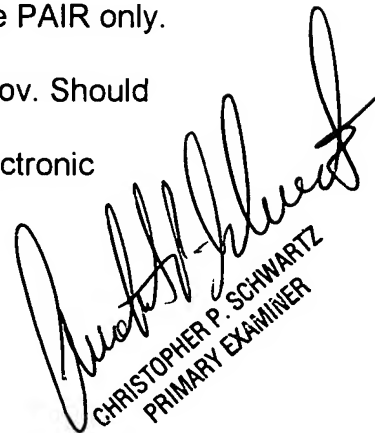
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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher P. Schwartz whose telephone number is 703-308-0576. The examiner can normally be reached on M-F 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Bucci can be reached on 703-308-3668. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Cps  
3/13/05



CHRISTOPHER P. SCHWARTZ  
PRIMARY EXAMINER